

117TH CONGRESS
1ST SESSION

S. _____

To provide mandatory funding for the cleanup of legacy pollution, including National Priority List sites, certain abandoned coal mining sites, and formerly used defense sites, to address residential lead-based paint hazards, and to replace lead drinking water service lines, to provide grants under certain programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER (for himself, Mr. SCHATZ, Ms. SMITH, Mr. DURBIN, Mr. WHITEHOUSE, Mr. WYDEN, Mr. SANDERS, Ms. DUCKWORTH, Mr. MARKEY, Mrs. GILLIBRAND, Mr. VAN HOLLEN, Ms. WARREN, Mr. BLUMENTHAL, Mr. MERKLEY, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide mandatory funding for the cleanup of legacy pollution, including National Priority List sites, certain abandoned coal mining sites, and formerly used defense sites, to address residential lead-based paint hazards, and to replace lead drinking water service lines, to provide grants under certain programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Environmental Justice
3 Legacy Pollution Cleanup Act of 2021”.

4 **SEC. 2. MANDATORY FUNDING FOR ENVIRONMENTAL**
5 **CLEANUP AND REMEDIATION OF THREATS**
6 **TO PUBLIC HEALTH.**

7 (a) IN GENERAL.—The following amounts are appro-
8 priated, out of amounts in the Treasury not otherwise ap-
9 propriated, for fiscal year 2021, to remain available
10 through December 31, 2029:

11 (1) For deposit into the Abandoned Mine Rec-
12 lamation Fund established by section 401 of the
13 Surface Mining Control and Reclamation Act of
14 1977 (30 U.S.C. 1231), \$10,000,000,000 to provide
15 grants as expeditiously as practicable but by not
16 later than December 31, 2029, to States and Indian
17 Tribes for abandoned mine land and water reclama-
18 tion projects under that Act (30 U.S.C. 1201 et
19 seq.), which shall be distributed to States and Indian
20 Tribes that have a State or Tribal program ap-
21 proved under section 405 of that Act (30 U.S.C.
22 1235) or are referred to in section 402(g)(8)(B) of
23 that Act (30 U.S.C. 1232(g)(8)(B)): *Provided*, That
24 such amount shall be allocated based on the propor-
25 tion of unreclaimed eligible lands and waters the
26 State or Indian Tribe has in the inventory main-

1 tained under section 403(c) of that Act (30 U.S.C.
2 1233(c)): *Provided further*, That of the funds made
3 available by this paragraph, \$50,000,000 shall be
4 made available to the Secretary of the Interior to
5 provide States and Indian Tribes with the financial
6 and technical assistance necessary for the purpose of
7 making amendments to those inventories: *Provided*
8 *further*, That States that have made a certification
9 under subsection (a) of section 411 of that Act (30
10 U.S.C. 1240a) may not use funds provided under
11 this paragraph for the priorities described in sub-
12 sections (b), (e), and (f) of that section: *Provided*
13 *further*, That eligible Indian Tribes may use funds
14 as described in subsections (b), (e), and (f) of sec-
15 tion 411 of that Act (30 U.S.C. 1240a): *Provided*
16 *further*, That the total amount of grants provided
17 under this paragraph to each eligible Indian Tribe
18 shall be not less than \$20,000,000, to the extent
19 that the amount needed for reclamation projects de-
20 scribed in this paragraph on the land of the Indian
21 Tribe is not less than \$20,000,000: *Provided further*,
22 That in addition to the priorities described in section
23 403(a) of that Act (30 U.S.C. 1233(a)), priority
24 may also be given to reclamation projects that pro-
25 vide employment for former coal mine workers.

1 (2) For the Environmental Protection Agency—

2 (A) \$10,000,000,000 for remedial actions
3 at sites on the National Priorities List devel-
4 oped by the President in accordance with sec-
5 tion 105(a)(8)(B) of the Comprehensive Envi-
6 ronmental Response, Compensation, and Liabil-
7 ity Act of 1980 (42 U.S.C. 9605(a)(8)(B));

8 (B) \$10,000,000,000 for removal and re-
9 medial actions on abandoned mine land located
10 on Federal land: *Provided*, That such funds
11 may be used at a site regardless of whether the
12 site is on the National Priorities List developed
13 by the President in accordance with section
14 105(a)(8)(B) of the Comprehensive Environ-
15 mental Response, Compensation, and Liability
16 Act of 1980 (42 U.S.C. 9605(a)(8)(B)): *Pro-*
17 *vided further*, That priority shall be given to re-
18 moval and remedial actions on abandoned mine
19 land located in Indian country, with respect to
20 which the Administrator of the Environmental
21 Protection Agency shall coordinate with the In-
22 dian Tribe on whose land the applicable site is
23 located in selecting and prioritizing sites for
24 such removal and remedial actions, and in car-
25 rying out such removal and remedial actions:

1 *Provided further,* That none of the funds made
2 available by this subparagraph shall be used for
3 processing any mine waste or other substance
4 at a conventional uranium mill for the purpose
5 of extracting or concentrating source-material
6 content of the waste or other substance;

7 (C) \$45,000,000,000 for capitalization
8 grants to State drinking water treatment re-
9 volving loan funds established under section
10 1452 of the Safe Drinking Water Act (42
11 U.S.C. 300j-12) for States to provide forgivable
12 loans to replace lead service lines and take
13 other actions necessary to address threats to
14 public health as a result of heightened exposure
15 to lead in drinking water without requiring a
16 contribution to the cost of the replacement of
17 those lead services lines by any individual home-
18 owner;

19 (D) \$25,000,000,000 for the Adminis-
20 trator of the Environmental Protection Agency
21 to provide, as expeditiously as practicable but
22 by not later than September 30, 2029, direct
23 grants to municipalities or municipal entities
24 for the planning, design, and construction of
25 treatment works (as defined in section 212 of

1 the Federal Water Pollution Control Act (33
2 U.S.C. 1292)) to intercept, transport, control,
3 treat, limit, or reuse sewage generated in mu-
4 nicipal combined sewer systems in municipali-
5 ties in which the median household income is
6 \$50,000 or less under the sewer overflow and
7 stormwater reuse municipal grant program es-
8 tablished under section 221 of the Federal
9 Water Pollution Control Act (33 U.S.C. 1301);
10 (E) \$30,000,000,000 for grants to be
11 awarded as expeditiously as practicable but by
12 not later than September 30, 2029, under the
13 Diesel Emissions Reduction Program under sec-
14 tions 792 and 793 of the Energy Policy Act of
15 2005 (42 U.S.C. 16132, 16133): *Provided,*
16 That not less than 80 percent of the amounts
17 made available under this subparagraph shall
18 be awarded as grants and shall be used to fund
19 the replacement of diesel school buses at schools
20 eligible for assistance under part A of title I of
21 the Elementary and Secondary Education Act
22 of 1965 (20 U.S.C. 6311 et seq.) with zero-
23 emission buses, as well as charging infrastruc-
24 ture, with priority to be given to grants for
25 schools that serve the highest number of stu-

1 dents (measured in absolute numbers or in the
2 percentage of the student population) who are
3 eligible for free or reduced price lunches under
4 the Richard B. Russell National School Lunch
5 Act (42 U.S.C. 1751 et seq.);

6 (F) \$2,000,000,000 to carry out
7 Brownfields projects authorized by section
8 104(k) of the Comprehensive Environmental
9 Response, Compensation, and Liability Act of
10 1980 (42 U.S.C. 9604(k)): *Provided*, That pri-
11 ority shall be given to projects that include re-
12 mediation of lead in soil; and

13 (G) \$1,000,000,000 for grants to States
14 and Indian Tribes under section 128(a) of the
15 Comprehensive Environmental Response, Com-
16 pensation, and Liability Act of 1980 (42 U.S.C.
17 9628(a)).

18 (3) For the Department of Housing and Urban
19 Development—

20 (A) \$45,000,000,000 to provide grants as
21 expeditiously as practicable but by not later
22 than September 30, 2029, to States and units
23 of local government under section 1011 of the
24 Residential Lead-Based Paint Hazard Reduc-
25 tion Act (42 U.S.C. 4852) to evaluate and re-

1 duce lead-based paint hazards and other hous-
2 ing-related health and safety hazards in low-in-
3 come housing: *Provided*, That recipients of
4 these funds shall provide employment and other
5 economic opportunities to low- and very low-in-
6 come persons pursuant to section 3 of the
7 Housing and Urban Development Act of 1968
8 (12 U.S.C. 1701u): *Provided further*, That pri-
9 ority shall be given to States and units of local
10 government that have lead poisoning prevention
11 policies that are consistent with the blood lead
12 reference value established by the Centers for
13 Disease Control and Prevention; and

14 (B) \$1,000,000,000 for grants under the
15 Healthy Homes Production Grant Program for
16 Tribal Housing, as authorized under sections
17 501 and 502 of the Housing and Urban Devel-
18 opment Act of 1970 (12 U.S.C. 1701z-1,
19 1701z-2), to identify and address housing-re-
20 lated health and safety hazards in Tribal com-
21 munities.

22 (4) For the Corps of Engineers—

23 (A) \$10,000,000,000 for environmental
24 restoration of formerly used defense sites under

1 section 2701 of title 10, United States Code;
2 and

3 (B) \$3,000,000,000 for the Formerly Utili-
4 zed Sites Remedial Action Program of the
5 Corps of Engineers.

6 (5) For the Department of Agriculture—

7 (A) \$10,000,000,000 to provide grants as
8 expeditiously as practicable but by not later
9 than September 30, 2029, to private nonprofit
10 organizations under section 306E of the Con-
11 solidated Farm and Rural Development Act (7
12 U.S.C. 1926e) for the purpose of providing sub-
13 grants to eligible individuals (as defined in sub-
14 section (a) of that section) in accordance with
15 that section: *Provided*, That a private nonprofit
16 organization that receives such a grant shall
17 give priority to the provision of subgrants to eli-
18 gible individuals (as so defined) who do not
19 have a sanitary sewage disposal system, have a
20 malfunctioning or improperly maintained sani-
21 tary sewage disposal system, or rely on inad-
22 equate systems, including straight pipes: *Pro-*
23 *vided further*, That subgrants to eligible individ-
24 uals (as so defined) for household decentralized
25 wastewater systems shall include sufficient ad-

1 ditional funding to cover the cost of a perform-
2 ance warranty with a duration of at least 5
3 years: *Provided further*, That of the funds made
4 available by this subparagraph, \$50,000,000
5 shall be made available to the Secretary of Ag-
6 riculture for research and demonstration
7 projects for new technologies and systems relat-
8 ing to household wastewater disposal that have
9 long-term functionality in soil conditions and
10 water table levels that have caused current
11 technologies to malfunction prematurely; and

12 (B) \$25,000,000,000 for the Chief of the
13 Forest Service to provide grants as expedi-
14 tiously as practicable but by not later than Sep-
15 tember 30, 2028, to States, Indian Tribes,
16 units of local government, and private nonprofit
17 organizations for tree planting projects in areas
18 identified by the Bureau of the Census as an
19 “urban area” in the most recent decennial cen-
20 sus: *Provided*, That eligible uses of the grant
21 funding shall include establishing tree nurs-
22 eries, purchasing trees, site preparation, and
23 maintaining planted trees for a period of up to
24 3 years: *Provided further*, That priority shall be
25 given to projects that are located in low-income

1 communities and projects located in a neighbor-
2 hood with lower tree canopy cover and higher
3 daytime maximum temperatures.

4 (6) For the Indian Health Service,
5 \$3,000,000,000 for the sanitation facilities program
6 established under section 7 of the Act of August 5,
7 1954 (68 Stat. 674, chapter 658; 42 U.S.C. 2004a),
8 to provide safe drinking water and adequate sewer
9 systems in the homes of Indians and Alaska Natives.

10 (b) WAIVER OF MATCHING FUNDS REQUIRE-
11 MENTS.—Notwithstanding any other provision of law, in-
12 cluding section 104(k)(10)(B)(iii) of the Comprehensive
13 Environmental Response, Compensation, and Liability Act
14 of 1980 (42 U.S.C. 9604(k)(10)(B)(iii)) and section
15 793(c)(3) of the Energy Policy Act of 2005 (42 U.S.C.
16 16133(c)(3)), no matching funds requirement or matching
17 funds incentive shall apply to amounts made available
18 under subsection (a).

19 (c) LIMITATION ON EXPENDITURES.—Notwith-
20 standing any other provision of law, the remaining bal-
21 ances (whether obligated or unobligated) on September
22 30, 2030, of amounts appropriated by this Act shall be
23 canceled and shall not be available thereafter for obliga-
24 tion or expenditure for any purpose.

25 (d) DAVIS-BACON COMPLIANCE.—

1 (1) IN GENERAL.—All laborers and mechanics
2 employed on projects funded directly by or assisted
3 in whole or in part by this section shall be paid
4 wages at rates not less than those prevailing on
5 projects of a character similar in the locality as de-
6 termined by the Secretary of Labor in accordance
7 with subchapter IV of chapter 31 of part A of sub-
8 title II of title 40, United States Code (commonly
9 referred to as the “Davis-Bacon Act”).

10 (2) AUTHORITY.—With respect to the labor
11 standards specified in this subsection, the Secretary
12 of Labor shall have the authority and functions set
13 forth in Reorganization Plan Numbered 14 of 1950
14 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of
15 title 40, United States Code.

16 (e) USE OF AMERICAN IRON, STEEL, AND MANUFAC-
17 TURED GOODS.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 amounts made available under this section may not
20 be obligated for a project described in this section
21 unless all steel, iron, and manufactured goods to be
22 used for the project have been or will be produced
23 in the United States.

24 (2) EXCEPTIONS.—Paragraph (1) shall not
25 apply in any case or category of cases in which the

1 head of the Federal department or agency overseeing
2 a project finds that—

3 (A) applying paragraph (1) would be in-
4 consistent with the public interest;

5 (B) iron, steel, or the relevant manufac-
6 tured goods are not produced in the United
7 States in sufficient and reasonably available
8 quantities and of a satisfactory quality; or

9 (C) inclusion of iron, steel, and manufac-
10 tured goods produced in the United States
11 would increase the cost of the overall project by
12 more than 25 percent.

13 (3) WAIVER.—

14 (A) IN GENERAL.—If the head of a Fed-
15 eral department or agency receives a request for
16 a waiver under this subsection, the head of that
17 department or agency shall—

18 (i) make available to the public a copy
19 of the request and information available to
20 the head of the department or agency con-
21 cerning the request; and

22 (ii) allow for public input on the re-
23 quest for not fewer than 15 days prior to
24 making a finding based on the request.

1 (B) ELECTRONIC ACCESS.—The head of a
2 department or agency receiving a request for a
3 waiver under this subsection shall make the re-
4 quest and accompanying information available
5 by electronic means, including on the official
6 public internet website of the department or
7 agency.

8 (4) APPLICATION.—This subsection shall be ap-
9 plied in accordance with United States obligations
10 under international agreements.

11 (5) APPLICABILITY.—Nothing in this sub-
12 section supersedes or preempts any existing domestic
13 content requirement to the extent that the existing
14 domestic content requirement conflicts with this sub-
15 section.

16 (f) EMERGENCY DESIGNATION.—

17 (1) IN GENERAL.—The amounts provided by
18 this section are designated as an emergency require-
19 ment pursuant to section 4(g) of the Statutory Pay-
20 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

21 (2) DESIGNATION IN SENATE.—In the Senate,
22 this section is designated as an emergency require-
23 ment pursuant to section 4112(a) of H. Con. Res.
24 71 (115th Congress), the concurrent resolution on
25 the budget for fiscal year 2018.